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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,302	02/21/2002	Alois Sferrazza	27325.00	9096
22465	7590	08/25/2004	EXAMINER	
PITTS AND BRITTIAN P C P O BOX 51295 KNOXVILLE, TN 37950-1295			PHASGE, ARUN S	
			ART UNIT	PAPER NUMBER
			1753	
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/080,302

Applicant(s)

SFERRAZZA, ALOIS

Examiner

Arun S. Phasge

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-4, 7-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by Goldstein of record for reasons of record.

#### ***Claim Rejections - 35 USC § 103***

Claims 5-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein as applied to claims above, and further in view of Schmidt of record for reasons of record.

#### ***Response to Arguments***

Applicant's arguments filed 6/2/04 have been fully considered but they are not persuasive.

Applicants argue that the Goldstein patent "incorrectly refers to the invention disclosed therein as relating to electrodialysis rather than electrodeionization. While the Goldstein patent does disclose the use of the "occasionally mistermmed" filled cell electrodialysis, the reference clearly shows that it is a subset of the larger group, i.e., electrodialysis (see abstract). Indeed

the reference discloses other members of the electrodialysis group, "including" electrodialysis (ED), reversing type electrodialysis, filled-cell ED and reversing type, filled-cell ED (see col. 22, lines 43-48). The reference further teaches that the frame used in all these types of cell (col. 22, lines 43-44).

Thus, while applicants can cite portions of the reference which are directed to EDI or filled-cell ED, it is untenable to limit the disclosure of the Goldstein patent to a mere embodiment when the patent shows that it is used in a varieties of different ways.

Applicants further argue that the combination of Goldstein with Schmidt is untenable, because they are from non-analogous art.

As stated above, the Goldstein patent is directed to electrodialysis. Thus the Schmidt and Goldstein patents are from analogous art. Furthermore, as shown in the prior Action, one having ordinary skill in the art would have been motivated to modify the disclosure of the Goldstein patent with the teachings of the Schmidt patent to obtain the instant invention.

Accordingly, all the claims stand rejected.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

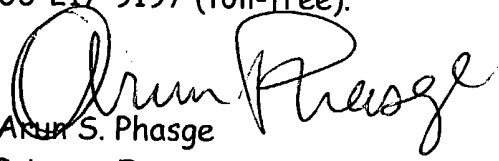
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Phasge whose telephone number is (571) 272-1345. The examiner can normally be reached on **MONDAY-THURSDAY, 7:30-6:00.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (571) 272-1342. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Arun S. Phasge  
Primary Examiner  
Art Unit 1753

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